

Remarks:

In response to the Restriction Requirement dated November 29, 2005, the period for response to which has been extended by three months by the accompanying petition and fee payment, Applicants hereby elect to prosecute the claims of Group I (claims 1-10 and 46-55, drawn to methods to identify invariant gene expression) with traverse. In response to the additional restriction requirements, Applicants provisionally elect with traverse at least 10 cell or tissue types and at least 10 genes.

With regard to the traversal, Applicants disagree that the inventions of Group I and III are unrelated. Specifically, Applicants request that claims 18-27 in Group III be rejoined and examined with the claims of Group I. Here, the Examiner has not shown that there would be a serious burden if restriction was not required. The Examiner has classified the inventions of both Groups I and III in class 435 subclass 6. Moreover, claims 18-27 (Group III) are drawn toward a method of normalizing the expression of at least one gene with the detected expression of a control gene identified by the method of claim 1 (Group I). Thus, the methods of claims 18-27 (Group III) are not independent and distinct from the claims of Group I. Accordingly, Applicants respectfully submit that the restriction of Groups I and III was improper and that the groups be rejoined and examined together.

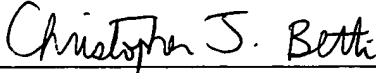
Moreover, with regards to the traversal of the election requirements, Applicants respectfully request the Examiner's clarification. Specifically, the Examiner has alleged that the inventions of Groups I, II and III contain claims that are presented in improper Markush format, thereby warranting the election requirements. Applicants respectfully request clarification as none of the claims present Markush groups. Additionally, the Examiner has requested election of one cell or tissue type selected from at least 10, 25, or 50 cell/ tissue types. Applicants request clarification as to whether the Examiner is requiring an election of a specific cell/ tissue type (e.g. cardiac tissue or epithelial cell) or a specific number of cells/ tissues (e.g. 10, 25 or 50). Last, upon election of Group I, the Examiner has required Applicants to further elect a gene set selected from at least 10, 25, 50 or 100 genes. Applicants note that the claims of Group I do not contain claims directed toward a set of genes. Applicants respectfully request clarification as to whether the further election of a set of genes is necessary.

In view of the above remarks, Applicants respectfully request reconsideration of the restriction requirements.

Except for issues payable under 37 C.F.R. 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account 50-0310. This paragraph is intended to be a **constructive petition for extension of time** in accordance with 37 C.F.R. 1.136(a)(3).

Dated: **May 30, 2006**
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Respectfully submitted,
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